

2016-2017 BUDGET QUESTION

Response to Request for Information

DEPARTMENT: Financial Services – Budget

REQUEST NO.: 21

REQUESTED BY: Gallo

DATE REQUESTED: 5/12/16

DATE POSTED: 5/17/16

REQUEST: Please provide the legal framework for the setting of fees. Also explain how the cost of service for fees are developed.

RESPONSE: A city may charge a fee if the legal basis for the fee is sound and the City Council has approved it. To determine whether a fee is sound or not, it must meet one of the three criteria below:

- A Texas state statute allows/authorizes it;
- Authority to charge the fee is recognized by the courts or an Attorney General opinion; or,
- Home Rule authority supports it (Austin is a Home Rule city).

Even if the legal basis for a fee is sound, charging a fee at a level in excess of the cost to regulate the activity or provide the service can be found by courts to be an illegal tax. State law requires that a municipality's fees not exceed the municipality's cost of providing the services or regulating the activity for which the fees are charged. The City is currently engaged in a comprehensive review of existing departmental fees for compliance with state cost-of-service standards. City staff review all the costs that are directly linked to a particular service (i.e. wages and benefits, vacation and sick time, overtime, hours worked, etc.) to arrive at the full cost recovery amount for the fee charged for that service. Financial Policy #11 requires that the City of Austin's fees be reviewed for compliance with State cost-of-service standards at least once every five years. City staff are currently completing the fifth year of the initial cycle of comprehensive cost-of-service analyses in order to comply with this financial policy.